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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As passed by both Houses

Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Bill 2026

No. , 2026

A Bill for an Act to amend legislation relating to criminal and migration laws, and for related purposes

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A Bill for an Act to amend legislation relating to criminal and migration laws, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
1. The whole of this Act	The day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Note: The provisions of a legislative instrument amended or inserted by this Act, and any other provisions of that instrument, may be amended or repealed by a person who is currently authorised under the enabling legislation for the instrument to make instruments of the same kind (see subsection 13(5) of the *Legislation Act 2003*).

Schedule 1—Criminal law amendments

Part 1—Aggravated offences for preachers and leaders

Criminal Code Act 1995

1 Subsection 80.2BA(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2.

Note 2: A person might commit an aggravated offence if the person is a religious official or spiritual leader etc. (see section 80.2DA).

Penalty: Imprisonment for 10 years.

2 Subsection 80.2BA(2) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2.

Note 2: A person might commit an aggravated offence if the person is a religious official or spiritual leader etc. (see section 80.2DA).

Penalty: Imprisonment for 7 years.

3 Subsection 80.2BB(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2.

Note 2: A person might commit an aggravated offence if the person is a religious official or spiritual leader etc. (see section 80.2DA).

Penalty: Imprisonment for 10 years.

4 Subsection 80.2BB(2) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2.

Note 2: A person might commit an aggravated offence if the person is a religious official or spiritual leader etc. (see section 80.2DA).

Penalty: Imprisonment for 7 years.

5 Subsection 80.2BD(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2.

Note 2: A person might commit an aggravated offence if the person is a religious official or spiritual leader etc. (see section 80.2DA).

Penalty: Imprisonment for 10 years.

6 Subsection 80.2BD(2) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2.

Note 2: A person might commit an aggravated offence if the person is a religious official or spiritual leader etc. (see section 80.2DA).

Penalty: Imprisonment for 7 years.

7 At the end of Subdivision C of Division 80 of the *Criminal Code*

Add:

80.2DA Aggravated offence for religious officials or other spiritual leaders etc.

(1) A person commits an offence if:

(a) the person commits an offence against subsection 80.2A(1), 80.2B(1), 80.2BA(1), 80.2BB(1), 80.2BC(1), 80.2BD(1) or 80.2BE(1) (the ***underlying offence***); and

(b) the conduct is engaged in by the person in the person's capacity as:

(i) a religious official; or

(ii) a spiritual leader; or

(iii) another leader (however described) of a group, who provides religious instruction or pastoral care (whether religious or secular).

Penalty: Imprisonment for 12 years.

(2) A person commits an offence if:

(a) the person commits an offence against subsection 80.2A(2), 80.2B(2), 80.2BA(2), 80.2BB(2), 80.2BC(2), 80.2BD(2) or 80.2BE(2) (the ***underlying offence***); and

(b) the conduct is engaged in by the person in the person's capacity as:

(i) a religious official; or

(ii) a spiritual leader; or

(iii) another leader (however described) of a group, who provides religious instruction or pastoral care (whether religious or secular).

Penalty: Imprisonment for 10 years.

(3) There is no fault element for the physical element of conduct described in paragraph (1)(a) or (2)(a) other than the fault elements (however described), if any, for the underlying offence.

(4) To avoid doubt:

(a) a person does not commit an underlying offence for the purposes of paragraph (1)(a) or (2)(a) if the person has a defence to the underlying offence; and

(b) a person may be convicted of an offence against subsection (1) or (2) even if the person has not been convicted of the underlying offence.

Double jeopardy for an aggravated offence

(5) To avoid doubt, if a person has been acquitted or convicted of an underlying offence, the person cannot be convicted of the corresponding aggravated offence for the same conduct.

Definitions

(6) In this section:

religious official includes a person who performs religious functions (including a person who leads worship or provides religious instruction), whether or not the person has been appointed (formally or informally) to an official role in a religious institution.

spiritual leader includes a person who performs religious functions (including a person who leads worship or provides religious instruction), whether or not the person has been appointed (formally or informally) as a spiritual leader.

Part 2—Increased penalty for using a postal or similar service to menace, harass or cause offence

Criminal Code Act 1995

8 Section 471.12 of the *Criminal Code* (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 5 years.

9 Application

The amendments of the *Criminal Code* made by this Part apply in relation to conduct engaged in after the commencement of this Part.

Part 3—Aggravated sentencing factor

Crimes Act 1914

10 After paragraph 16A(2)(ma)

Insert:

(mb) if:

(i) the person's conduct constituting the offence was motivated, whether wholly or in part, by hatred of another person (the ***target person***) or a group of persons (the ***target group***); and

(ii) that hatred was because of the person's belief that the target person or persons in the target group are distinguished by race, or national or ethnic origin;

that fact as a reason for aggravating the seriousness of the criminal behaviour to which the offence relates;

11 After subsection 16A(2AA)

Insert:

(2AAB) Paragraph (2)(mb) does not apply in relation to an offence against section 80.2A, 80.2B, 80.2BA, 80.2BB, 80.2BC, 80.2BD, 80.2BE, 80.2DA or 80.2DB of the *Criminal Code*.

(2AAC) Without limiting subparagraph (2)(mb)(i), a person's conduct constituting the offence is motivated by hatred if, at the time of the conduct, or immediately before or immediately after the conduct, the person demonstrated, or expressed, hostility or malice in respect of the race, or national or ethnic origin, of the target person or the persons in the target group.

(2AAD) For the purposes of paragraph (2)(mb), it is immaterial whether the target person, or members of the target group, actually are distinguished by the particular race, or national or ethnic origin.

Part 4—Prohibited hate groups

Division 1—Main amendments

Criminal Code Act 1995

12 After paragraph 5(2)(fa)

Insert:

(fb) Part 5.3B (prohibited hate groups);

13 After Part 5.3A of the *Criminal Code*

Insert:

Part 5.3B—Prohibited hate groups

Division 114A—Preliminary

114A.1 Objects

(1) The objects of this Part are to:

(a) protect the Australian community or part of the Australian community against social, economic, psychological and physical harm (including harm mentioned in subsection (2)), and from the promotion of violence, by prohibiting organisations that engage in, prepare or plan to engage in, or assist the engagement in, or advocate engaging in, conduct constituting a hate crime; and

(b) to give effect to Australia's obligations under the following:

(i) Articles 20 and 26 of the International Covenant on Civil and Political Rights, done at New York on 16 December 1966, as amended and in force for Australia from time to time;

(ii) Articles 4(a) and (b) of the International Convention on the Elimination of all Forms of Racial Discrimination, done at New York on 21 December 1965, as amended and in force for Australia from time to time.

Note: The Covenant and Convention could in 2026 be viewed in the Australian Treaties Library on the AustLII website (https://www.austlii.edu.au).

(2) For the purposes of paragraph (1)(a), social, economic, psychological and physical harm includes social, economic, psychological and physical harm caused by the continued presence in Australia of organisations that have engaged in, prepared or planned to engage in, or assisted the engagement in, or advocated engaging in, conduct constituting a hate crime.

114A.2 Definitions

(1) In this Part:

advocate has the meaning given by subsection (2).

AFP Minister means the Minister administering the *Australian Federal Police Act 1979*.

funds means:

(a) property and assets of every kind, whether tangible or intangible, movable or immovable, however acquired; and

(b) legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such property or assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, debt instruments, drafts and letters of credit.

hate crime has the meaning given by section 114A.3.

member of an organisation includes:

(a) a person who is an informal member of the organisation; and

(b) a person who has taken steps to become a member of the organisation; and

(c) in the case of an organisation that is a body corporate—a director or an officer of the body corporate.

organisation means a body corporate or an unincorporated body, whether or not the body:

(a) is based outside Australia; or

(b) consists of persons who are not Australian citizens; or

(c) is part of a larger organisation.

prohibited hate group means an organisation that is specified by the regulations for the purposes of this definition (see sections 114A.4 to 114A.8).

prohibited hate group regulation means a regulation specifying an organisation for the purposes of the definition of ***prohibited hate group*** in this section.

recruit includes induce, incite and encourage.

*Definition of **advocates***

(2) In this Part, an organisation ***advocates*** engaging in conduct constituting a hate crime if:

(a) the organisation counsels, promotes, encourages or urges the engagement in conduct constituting a hate crime; or

(b) the organisation provides instruction on how to engage in conduct constituting a hate crime; or

(c) the organisation praises the engagement in:

(i) conduct constituting a hate crime; or

(ii) conduct that would constitute a hate crime if engaged in in Australia;

in circumstances where there is an unacceptable risk that such praise might have the effect of leading a person (regardless of the person's age or any mental impairment that the person might suffer) to engage in conduct constituting a hate crime.

114A.3 Definition of *hate crime*

(1) A ***hate crime*** is conduct (whether engaged in before or after this section commences):

(a) that would constitute any of the following offences:

(i) an offence under Subdivision C of Division 80 (urging or threatening violence and offences against groups or members of groups), other than section 80.2, 80.2C or 80.2D, to the extent that the targeted group (within the

meaning of the offence) is distinguished by race or national or ethnic origin;

(ii) an offence under section 80.2H or 80.2HA (publicly displaying prohibited symbols and giving Nazi salute); or

(b) that was engaged in before a provision referred to in paragraph (a) commenced and would have constituted an offence against the provision had the provision been in force at the time the conduct was engaged in.

(2) A ***hate crime*** is also conduct (whether engaged in before or after this section commences):

(a) that involves publicly inciting hatred of another person (the ***target***) or a group of persons (the ***target group***) because of the race or national or ethnic origin of the target or target group and that:

(i) would constitute an offence against a provision of a law of the Commonwealth; or

(ii) would constitute an offence against a provision of a law of a State or a Territory as is in force at the commencement of this section, being a provision specified in subsection (3), to the extent that the offence relates to race or national or ethnic origin; or

(iii) if engaged in before a provision referred to in subparagraph (i) or (ii) commenced—would have constituted an offence against the provision had the provision been in force at the time the conduct was engaged in; and

(b) that would, in all the circumstances, cause a reasonable person who is the target, or a member of the target group, to be intimidated, to fear harassment or violence, or to fear for their safety.

(3) For the purposes of subparagraph (2)(a)(ii), the provisions are the following:

(a) section 93ZAA of the *Crimes Act 1900* (NSW);

(b) subsection 195N(1) of the *Crimes Act 1958* (Vic.);

(c) section 52A of Schedule 1 to the *Criminal Code Act 1899* (Qld);

(d) section 77 or 78 of the Schedule to the *Criminal Code Act Compilation Act 1913* (WA);

(e) section 4 of the *Racial Vilification Act 1996* (SA);

(f) section 750 of the *Criminal Code 2002* (ACT).

(4) For the purposes of subsection (1) and subparagraphs (2)(a)(i), (ii) and (iii), if a defence applies in relation to conduct, that conduct is not conduct that would constitute an offence.

(5) A ***hate crime*** is also conduct, or threat of conduct, (whether engaged in or threatened before or after this section commences):

(a) that involves, or would involve, any one or more of the following:

(i) causing serious harm to a person (the ***targeted person***);

(ii) causing serious damage to property (the ***targeted property***);

(iii) causing a person's (the ***targeted person***) death;

(iv) endangering a person's (the ***targeted person***) life, other than the life of the person taking the action;

(v) creating a serious risk to the health or safety of a section of the public (the ***targeted persons***); and

(b) that a person engaged in or threatened to engage in because of the person's belief that:

(i) the targeted person or persons are distinguished by race or national or ethnic origin; or

(ii) the targeted property is associated with a person or persons distinguished by race or national or ethnic origin.

Note: Consistent with the implied freedom of political communication, subsection (5) is directed at serious conduct or the threat of serious conduct of a criminal nature.

(6) For the purposes of paragraph (5)(b), it is immaterial whether:

(a) the targeted person or persons actually were distinguished by race or national or ethnic origin; or

(b) the targeted property actually was associated with a person or persons distinguished by race or national or ethnic origin.

114A.4 Regulations specifying prohibited hate groups

(1) Before the Governor-General makes a prohibited hate group regulation specifying an organisation, the AFP Minister must be satisfied on reasonable grounds that:

(a) the organisation:

(i) has engaged in, prepared or planned to engage in, or assisted the engagement in, conduct constituting a hate crime; or

(ii) has advocated (whether or not in Australia) engaging in conduct constituting a hate crime, other than an offence against section 80.2A, 80.2B, 80.2BC or 80.2BE (advocacy offences); and

(b) specifying the organisation as a prohibited hate group is reasonably necessary to protect the Australian community or part of the Australian community against harm of any one or more of the kinds referred to in paragraph 114A.1(1)(a).

Note: Certain steps must be taken before a prohibited hate group regulation can be made (see sections 114A.5 and 114A.6).

Conduct constituting a hate crime may have occurred before commencement

(2) In subsection (1):

(a) a reference to conduct constituting a hate crime includes a reference to conduct constituting a hate crime that occurred before subsection (1) commences; and

(b) a reference to having engaged in, prepared or planned to engage in, or assisted the engagement in, or having advocated engaging in, conduct constituting a hate crime includes a reference to having engaged in, prepared or planned to engage in, or assisted the engagement in, or having advocated engaging in, conduct constituting a hate crime before subsection (1) commences.

References to engaging in conduct constituting a hate crime

(3) In this section, a reference to engaging in conduct constituting a hate crime includes:

(a) a reference to engaging in conduct constituting a hate crime, even if a hate crime does not occur; and

(b) a reference to engaging in conduct constituting a specific hate crime; and

(c) a reference to engaging in conduct constituting more than one hate crime.

Conviction not required

(4) A person does not need to have been convicted of a hate crime in order for the AFP Minister to be satisfied an organisation has engaged in conduct of a kind mentioned in paragraph (1)(a).

No procedural fairness required

(5) The AFP Minister is not required to observe any requirements of procedural fairness in deciding whether or not the AFP Minister is satisfied for the purposes of this section.

114A.5 Director-General of Security advice to be provided before specifying an organisation as a prohibited hate group

Director-General may provide advice to AFP Minister

(1) The Director-General may provide written advice to the AFP Minister recommending that the AFP Minister consider whether an organisation should be specified as a prohibited hate group. However, the Director-General may provide the advice only if the Director-General is satisfied of one or more of the following:

(a) both of the following apply:

(i) the organisation has engaged in activities;

(ii) the Director-General is satisfied that the activities, or the continued engagement in the activities, would or are likely to increase the risk of politically motivated violence, or of the promotion of communal violence;

(b) the organisation has:

(i) advocated for or engaged in politically motivated violence, or engaged in the promotion of communal violence; or

(ii) engaged in activities that indicate a risk that the organisation may advocate for or engage in politically motivated violence, or engage in the promotion of communal violence, in the future.

Receipt of advice from Director-General of Security

(2) The AFP Minister may consider recommending that the Governor-General makes a prohibited hate group regulation specifying the organisation only if the AFP Minister has received advice from the Director-General of Security in accordance with subsection (1).

AFP Minister may take account of other information

(3) To avoid doubt, the AFP Minister may take into account information in addition to the written advice in determining whether an organisation should be specified as a prohibited hate group.

Function taken to be function of Organisation

(4) The function of the Director-General under this section is, for the purposes of the *Australian Security Intelligence Organisation Act 1979*, taken to be a function of the Organisation.

No procedural fairness required

(5) The Director-General is not required to observe any requirements of procedural fairness in providing advice under this section.

Definitions

(6) In this section:

politically motivated violence has the meaning given by section 4 of the *Australian Security Intelligence Organisation Act 1979*.

promotion of communal violence has the meaning given by section 4 of the *Australian Security Intelligence Organisation Act 1979*.

114A.6 Engaging with the Attorney-General and Leader of the Opposition

Before the Governor-General makes a prohibited hate group regulation specifying an organisation, the AFP Minister must:

(a) obtain the Attorney-General's agreement in writing to the organisation being specified for the purposes of that definition; and

(b) arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed regulation.

114A.7 Including or removing names of prohibited hate groups

(1) This section applies if the AFP Minister is satisfied on reasonable grounds that:

(a) an organisation is specified by a prohibited hate group regulation; and

(b) the organisation:

(i) is referred to by another name (the ***alias***), in addition to, or instead of, a name used to specify the organisation in the regulations; or

(ii) no longer uses a name (the ***former name***) used in the regulations to specify the organisation.

(2) The AFP Minister may, by legislative instrument, amend the regulations to do either or both of the following:

(a) include the alias in the regulations if the AFP Minister is satisfied as referred to in subparagraph (1)(b)(i);

(b) remove the former name from the regulations if the AFP Minister is satisfied as referred to in subparagraph (1)(b)(ii).

(3) Amendment of regulations under subsection (2) does not prevent the further amendment or repeal of the regulations by regulations made under section 5 of this Act for the purposes of the definition of ***prohibited hate group*** in subsection 114A.2(1).

(4) The AFP Minister may not, by legislative instrument made under this section, amend the regulations to remove entirely an organisation that has been prescribed.

(5) To avoid doubt, this section does not affect the power under section 5 of this Act to make a prohibited hate group regulation.

114A.8 De-listing a prohibited hate group

(1) If:

(a) an organisation is specified by a prohibited hate group regulation; and

(b) the AFP Minister ceases to be satisfied that it is reasonably necessary for the organisation to be so specified to protect the Australian community or part of the Australian community against harm of any of the kinds referred to in paragraph 114A.1(1)(a);

the AFP Minister must, by notifiable instrument, make a declaration to the effect that the AFP Minister has ceased to be so satisfied.

(2) Before the AFP Minister makes a declaration under subsection (1), the AFP Minister must:

(a) have regard to the matters referred to in subsection 114A.4(1); and

(b) consult the Attorney-General in relation to the making of the declaration; and

(c) arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed declaration.

Declaration to specify a day

(3) The declaration must specify the day on which the AFP Minister ceased to be satisfied as mentioned in paragraph (1)(b).

(4) The regulations, to the extent to which they specify the organisation, are taken to cease to have effect on the day specified in the declaration under subsection (3), even if that day occurred before the day on which the declaration is made.

Delisted organisation may be relisted later

(5) To avoid doubt, subsections (1) to (4) do not prevent the organisation from being subsequently specified by a prohibited

hate group regulation if the AFP Minister becomes satisfied as mentioned in subsection 114A.4(1).

114A.9 Reviews by Parliamentary Joint Committee on Intelligence and Security

(1) This section applies in relation to the following legislative instruments:

(a) a prohibited hate group regulation;

(b) an instrument made under section 114A.7 (including or removing names of prohibited hate groups).

(2) The Parliamentary Joint Committee on Intelligence and Security may:

(a) review the legislative instrument at any time; and

(b) report the Committee's comments and recommendations to each House of the Parliament.

Review of disallowable legislative instrument—extension of disallowance period

(3) If the Committee's report on a review of a disallowable legislative instrument is tabled in a House of the Parliament under subsection (2):

(a) during the applicable disallowance period for that House; and

(b) on or after the eighth sitting day of the applicable disallowance period;

then Part 2 of Chapter 3 of the *Legislation Act 2003* has effect, in relation to that disallowable legislative instrument and that House, as if each period of 15 sitting days referred to in that Part were extended in accordance with the table:

Extension of applicable disallowance period

Item	If the Committee's report is tabled in that House …	extend the period of 15 sitting days by …
1	on the fifteenth sitting day of the applicable disallowance period	8 sitting days of that House
2	on the fourteenth sitting day of the applicable disallowance period	7 sitting days of that House

Extension of applicable disallowance period		
Item	**If the Committee's report is tabled in that House …**	**extend the period of 15 sitting days by …**
3	on the thirteenth sitting day of the applicable disallowance period	6 sitting days of that House
4	on the twelfth sitting day of the applicable disallowance period	5 sitting days of that House
5	on the eleventh sitting day of the applicable disallowance period	4 sitting days of that House
6	on the tenth sitting day of the applicable disallowance period	3 sitting days of that House
7	on the ninth sitting day of the applicable disallowance period	2 sitting days of that House
8	on the eighth sitting day of the applicable disallowance period	1 sitting day of that House

Applicable disallowance period

(4) The ***applicable disallowance period*** for a House of the Parliament means the period of 15 sitting days of that House after the disallowable legislative instrument, or a copy of the disallowable legislative instrument, was laid before that House in accordance with section 38 of the *Legislation Act 2003*.

Division 114B—Offences

114B.1 Directing the activities of a prohibited hate group

(1) A person commits an offence if:

(a) the person intentionally directs the activities of an organisation; and

(b) the organisation is a prohibited hate group; and

(c) the person knows the organisation is a prohibited hate group.

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 15 years.

(2) A person commits an offence if:

(a) the person intentionally directs the activities of an organisation; and
(b) the organisation is a prohibited hate group; and
(c) the person is reckless as to whether the organisation is a prohibited hate group.

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 10 years.

114B.2 Membership of a prohibited hate group

(1) A person commits an offence if:
(a) the person intentionally is a member of an organisation; and
(b) the organisation is a prohibited hate group; and
(c) the person knows the organisation is a prohibited hate group.

Penalty: Imprisonment for 7 years.

(2) Subsection (1) does not apply if the person proves that the person took all reasonable steps to cease to be a member of the organisation as soon as practicable after the person knew that the organisation was a prohibited hate group.

Note 1: A defendant bears a legal burden in relation to the matter in subsection (2) (see section 13.4).

Note 2: For other defences, see section 114B.7.

114B.3 Recruiting for a prohibited hate group

(1) A person commits an offence if:
(a) the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
(b) the organisation is a prohibited hate group; and
(c) the first-mentioned person knows the organisation is a prohibited hate group.

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 15 years.

(2) A person commits an offence if:

(a) the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
(b) the organisation is a prohibited hate group; and
(c) the first-mentioned person is reckless as to whether the organisation is a prohibited hate group.

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 10 years.

114B.4 Training involving a prohibited hate group

(1) A person commits an offence if:
(a) the person does any of the following:
(i) intentionally provides training to an organisation intending the training to assist the organisation to engage in conduct described in paragraph 114A.4(1)(a);
(ii) intentionally provides training to an organisation intending the training to assist the organisation to expand or to continue to exist;
(iii) intentionally receives training from an organisation;
(iv) intentionally participates in training with an organisation; and
(b) the organisation is a prohibited hate group.

Penalty: Imprisonment for 15 years.

(2) Subject to subsection (3), strict liability applies to paragraph (1)(b).

(3) Subsection (1) does not apply unless the person is reckless as to the circumstance mentioned in paragraph (1)(b).

Note 1: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3)).

Note 2: For other defences, see section 114B.7.

114B.5 Getting funds to, from or for a prohibited hate group

(1) A person commits an offence if:
(a) the person intentionally:
(i) receives funds from, or makes funds available to, an organisation (whether directly or indirectly) intending

the receipt or provision of the funds to assist the organisation to engage in conduct described in paragraph 114A.4(1)(a); or

(ii) receives funds from, or makes funds available to, an organisation (whether directly or indirectly) intending the receipt or provision of the funds to assist the organisation to expand or to continue to exist; or

(iii) collects funds for, or on behalf of, an organisation (whether directly or indirectly); and

(b) the organisation is a prohibited hate group; and

(c) the person knows the organisation is a prohibited hate group.

Penalty: Imprisonment for 15 years.

(2) A person commits an offence if:

(a) the person intentionally:

(i) receives funds from, or makes funds available to, an organisation (whether directly or indirectly) intending the receipt or provision of the funds to assist the organisation to engage in conduct described in paragraph 114A.4(1)(a); or

(ii) receives funds from, or makes funds available to, an organisation (whether directly or indirectly) intending the receipt or provision of the funds to assist the organisation to expand or to continue to exist; or

(iii) collects funds for, or on behalf of, an organisation (whether directly or indirectly); and

(b) the organisation is a prohibited hate group; and

(c) the person is reckless as to whether the organisation is a prohibited hate group.

Penalty: Imprisonment for 10 years.

(3) Subsections (1) and (2) do not apply to the person's receipt of funds from the organisation if the person proves that the person received the funds solely for the purpose of the provision of:

(a) legal representation for a person in proceedings relating to this Part; or

(b) legal advice or legal representation in connection with the question of whether the organisation is a prohibited hate group; or

(c) assistance to the organisation for it to comply with a law of the Commonwealth or a State or Territory.

Note 1: A defendant bears a legal burden in relation to the matter in subsection (3) (see section 13.4).

Note 2: For other defences, see section 114B.7.

114B.6 Providing support to a prohibited hate group

(1) A person commits an offence if:

(a) the person intentionally provides to an organisation support or resources intending the support or resources to assist:

(i) the organisation to engage in conduct described in paragraph 114A.4(1)(a); or

(ii) the organisation to expand or to continue to exist; and

(b) the organisation is a prohibited hate group; and

(c) the person knows the organisation is a prohibited hate group.

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 15 years.

(2) A person commits an offence if:

(a) the person intentionally provides to an organisation support or resources intending the support or resources to assist:

(i) the organisation to engage in conduct described in paragraph 114A.4(1)(a); or

(ii) the organisation to expand or to continue to exist; and

(b) the organisation is a prohibited hate group; and

(c) the person is reckless as to whether the organisation is a prohibited hate group.

Note: For defences, see section 114B.7.

Penalty: Imprisonment for 10 years.

114B.7 General defences

It is not an offence against this Division to do either of the following:

(a) do a thing in accordance with an arrangement or agreement to which the Commonwealth is a party;

(b) perform an official duty or function for the Commonwealth, a State or a Territory.

Note: A defendant bears an evidential burden in relation to the matters in this section (see subsection 13.3(3)).

Division 114C—General provisions relating to offences

114C.1 Extended geographical jurisdiction for offences

Section 15.2 (extended geographical jurisdiction—category B) applies to an offence against this Part.

114C.2 Alternative verdicts

(1) This section applies if, in a prosecution for an offence (the ***prosecuted offence***) against a subsection of a section of this Part, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the ***alternative offence***) against another subsection of that section.

(2) The trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Division 2—Consequential amendments

Australian Citizenship Act 2007

14 Section 3 (paragraph (cb) of the definition of *national security offence*)

After "(terrorism)", insert ", or 5.3B (prohibited hate groups),".

Australian Security Intelligence Organisation Act 1979

15 After paragraph 35(2)(c)

Insert:

(ca) providing advice to the AFP Minister under section 114A.5 of the *Criminal Code* (specifying an organisation as a prohibited hate group);

Legislation (Exemptions and Other Matters) Regulation 2015

16 Section 12 (after table item 18D)

Insert:

18E	A regulation made solely for the purposes of the definition of ***prohibited hate group*** in subsection 114A.2(1) of the *Criminal Code*

Surveillance Devices Act 2004

17 Subparagraphs 30(1)(a)(viii) and (1A)(a)(iv)

After "113,", insert "114B,".

Telecommunications (Interception and Access) Act 1979

18 Subsection 5D(1) (after paragraph (vd) of the definition of *serious offence*)

Insert:

(ve) Division 114B of the *Criminal Code* (prohibited hate groups); or

Part 5—Aggravated grooming offences

Criminal Code Act 1995

19 Subsection 80.2A(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 10 years.

20 Subsection 80.2A(2) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 7 years.

21 Subsection 80.2B(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 10 years.

22 Subsection 80.2B(2) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 7 years.

23 Subsection 80.2BC(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 10 years.

24 Subsection 80.2BC(2) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 7 years.

25 Subsection 80.2BE(1) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or

the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 10 years.

26 Subsection 80.2BE(2) of the *Criminal Code* (penalty and note)

Repeal the penalty and note, substitute:

Note 1: For intention, see section 5.2. For recklessness, see section 5.4.

Note 2: A person might commit an aggravated offence if the person is a religious official or other spiritual leader etc. (see section 80.2DA) or the recipient of the advocacy is less than 18 years old (see section 80.2DB).

Penalty: Imprisonment for 7 years.

27 At the end of Subdivision C of Division 80 of the *Criminal Code*

Add:

80.2DB Aggravated offence—advocating violence or property damage etc. to a child

(1) A person (the ***offender***) commits an offence if:

(a) the offender commits an offence against subsection 80.2A(1), 80.2B(1), 80.2BC(1) or 80.2BE(1) (the ***underlying offence***) by advocating for one or more other persons to use force or violence, or cause damage or destruction; and

(b) at the time of the conduct, the offender is at least 18 years old; and

(c) the offender is reckless as to whether, at the time of the conduct, at least one of the other persons is less than 18 years old (whether or not one of those other persons actually is less than 18 years old).

Penalty: Imprisonment for 12 years.

(2) A person (the ***offender***) commits an offence if:

(a) the offender commits an offence against subsection 80.2A(2), 80.2B(2), 80.2BC(2) or 80.2BE(2) (the ***underlying offence***)

by advocating for one or more other persons to use force or violence, or cause damage or destruction; and

(b) at the time of the conduct, the offender is at least 18 years old; and

(c) the offender is reckless as to whether, at the time of the conduct, at least one of the other persons is less than 18 years old (whether or not one of those other persons actually is less than 18 years old).

Penalty: Imprisonment for 10 years.

(3) There is no fault element for the physical element in paragraph (1)(a) or (2)(a) other than the fault elements (however described), if any, for the underlying offence.

(4) Absolute liability applies to paragraphs (1)(b) and (2)(b).

(5) To avoid doubt:

(a) a person does not commit an underlying offence for the purposes of paragraph (1)(a) or (2)(a) if the person has a defence to the offence; and

(b) a person may be convicted of an offence against subsection (1) or (2) even if the person has not been convicted of the underlying offence.

Double jeopardy for aggravated offences

(6) To avoid doubt, if a person has been acquitted or convicted of an underlying offence, the person cannot be convicted of the corresponding aggravated offence for the same conduct.

28 After subsection 474.45B(1) of the *Criminal Code* (before the penalty)

Insert:

Note: A person might commit an aggravated offence if an individual to whom such material is provided, or from whom such material is solicited, is less than 18 years old (see section 474.45BA).

29 After section 474.45B of the *Criminal Code*

Insert:

474.45BA Aggravated offence for using a carriage service for violent extremist material

(1) A person commits an offence if:

(a) the person commits an offence against subsection 474.45B(1) (the ***underlying offence***); and

(b) the person is at least 18 years old; and

(c) the conduct constituting the offence involved either:

(i) transmitting, making available, publishing, distributing, advertising or promoting material or an electronic link to an individual or individuals; or

(ii) soliciting material or an electronic link from an individual or individuals; and

(d) the person is reckless as to whether, at the time of the conduct, at least one of the individuals is less than 18 years old (whether or not one of those individuals actually is less than 18 years old).

Penalty: Imprisonment for 7 years.

(2) There is no fault element for the physical element of conduct described in paragraph (1)(a) other than the fault elements (however described), if any, for the underlying offence.

(3) Absolute liability applies to paragraph (1)(b).

(4) To avoid doubt:

(a) a person does not commit an underlying offence for the purposes of paragraph (1)(a) if the person has a defence to the underlying offence; and

(b) a person may be convicted of an offence against subsection (1) even if the person has not been convicted of the underlying offence.

Double jeopardy for an aggravated offence

(5) To avoid doubt, if a person has been acquitted or convicted of an underlying offence, the person cannot be convicted of the corresponding aggravated offence for the same conduct.

Part 6—Hate symbols

Division 1—Reversing the burden of proof for public interest elements of prohibited symbols offences

Criminal Code Act 1995

30 Paragraph 80.2H(1)(c) of the *Criminal Code*

Omit "applies; and", substitute "applies.".

31 Paragraph 80.2H(1)(d) of the *Criminal Code*

Repeal the paragraph.

32 Subsection 80.2H(1) of the *Criminal Code* (note)

Omit "subsection (10)", substitute "subsections (9) and (10)".

33 Subsection 80.2H(2) of the *Criminal Code*

Omit "paragraphs (1)(c) and (d)", substitute "paragraph (1)(c)".

34 Subsection 80.2H(9) of the *Criminal Code*

Repeal the subsection, substitute:

Defences—religious, academic, educational, artistic, literary, scientific or journalistic purpose

(9) Subsection (1) does not apply to a person if a reasonable person would consider that:

(a) the conduct mentioned in paragraph (1)(a) is engaged in for a purpose that is:

(i) a religious, academic, educational, artistic, literary or scientific purpose; and

(ii) not contrary to the public interest; or

(b) the conduct mentioned in paragraph (1)(a) is engaged in for the purposes of making a news report, or a current affairs report, that:

(i) is in the public interest; and

(ii) is made by a person working in a professional journalistic capacity.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3)).

35 Subsection 80.2H(10) of the *Criminal Code* (heading)

Repeal the heading, substitute:

Defences—public duties etc. or opposing ideology

36 Paragraph 80.2HA(1)(c) of the *Criminal Code*

Omit "applies; and", substitute "applies.".

37 Paragraph 80.2HA(1)(d) of the *Criminal Code*

Repeal the paragraph.

38 Subsection 80.2HA(1) of the *Criminal Code* (note)

Omit "subsection (10)", substitute "subsections (9) and (10)".

39 Subsection 80.2HA(2) of the *Criminal Code*

Omit "paragraphs (1)(c) and (d)", substitute "paragraph (1)(c)".

40 Subsection 80.2HA(9) of the *Criminal Code*

Repeal the subsection, substitute:

Defences—religious, academic, educational, artistic, literary, scientific or journalistic purpose

(9) Subsection (1) does not apply to a person if a reasonable person would consider that:

(a) the conduct mentioned in paragraph (1)(a) is engaged in for a purpose that is:

(i) a religious, academic, educational, artistic, literary or scientific purpose; and

(ii) not contrary to the public interest; or

(b) the conduct mentioned in paragraph (1)(a) is engaged in for the purposes of making a news report, or a current affairs report, that:

(i) is in the public interest; and

(ii) is made by a person working in a professional journalistic capacity.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3)).

41 Subsection 80.2HA(10) of the *Criminal Code* (heading)

Repeal the heading, substitute:

Defences—public duties etc. or opposing group ideology

Division 2—Lowering the fault element for prohibited terrorist organisation symbols offences

Criminal Code Act 1995

42 Paragraph 80.2HA(1)(b) of the *Criminal Code*

Omit "the person knows that".

43 Paragraph 80.2JA(1)(c) of the *Criminal Code*

Omit "the person knows that".

Division 3—Expanding definition of prohibited organisation symbol

Criminal Code Act 1995

44 Paragraph 80.2E(1)(b) of the *Criminal Code*

Omit "terrorist".

45 Subsection 80.2E(3) of the *Criminal Code*

Omit "***terrorist***" (first occurring).

46 Paragraph 80.2E(3)(a) of the *Criminal Code*

Repeal the paragraph, substitute:

(a) a symbol that an organisation that is a terrorist organisation or prohibited hate group, or a member of such an organisation, uses to identify the organisation or any part of the organisation;

47 At the end of section 80.2E of the *Criminal Code*

Add:

Definitions

(5) In this section:

member:

(a) in relation to a terrorist organisation—has the meaning given by Division 102; and

(b) in relation to a prohibited hate group—has the meaning given by Division 114A.

prohibited hate group has the meaning given by Division 114A.

terrorist organisation has the meaning given by Division 102.

48 Section 80.2HA of the *Criminal Code* (heading)

Omit "**terrorist**".

49 Paragraph 80.2HA(1)(b) of the *Criminal Code*

Omit "terrorist".

50 Paragraph 80.2HA(10)(f) of the *Criminal Code*

Omit "or of a state sponsor of terrorism", substitute ", of a state sponsor of terrorism, or of a prohibited hate group (within the meaning of Division 114A)".

51 Section 80.2JA of the *Criminal Code* (heading)

Omit "**terrorist**".

52 Paragraphs 80.2JA(1)(c), (5)(b) and (c) and (6)(b) and (c) and 80.2M(3)(d) of the *Criminal Code*

Omit "terrorist".

53 Dictionary in the *Criminal Code*

Insert:

prohibited organisation symbol has the meaning given by subsection 80.2E(3).

54 Dictionary in the *Criminal Code* (definition of *prohibited terrorist organisation symbol*)

Repeal the definition.

Division 4—Amending the reasonable person test

Criminal Code Act 1995

55 Paragraph 80.2BE(1)(d) of the *Criminal Code*

After "religion", insert ", or national".

56 Paragraph 80.2BE(2)(d) of the *Criminal Code*

After "religion", insert ", or national".

57 Subsections 80.2H(3) and (4) of the *Criminal Code*

Repeal the subsections, substitute:

(3) For the purposes of paragraph (1)(c), this subsection applies if a reasonable person who is a member of a group of persons distinguished by race, colour or national or ethnic origin (a ***targeted group***) would consider that the conduct mentioned in paragraph (1)(a):

(a) involves dissemination of ideas of superiority over or hatred of a person who is a member of the targeted group, or the members of the targeted group, because of the race, colour or national or ethnic origin of the targeted group; or

(b) could incite another person or a group of persons to offend, insult, humiliate or intimidate:

(i) a person who is a member of the targeted group; or

(ii) the members of the targeted group.

Note: The object of this subsection is to give further effect to Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, done at New York on 21 December 1965. The Convention is in Australian Treaty Series 1975 No. 40 ([1975] ATS 40) and could in 2026 be viewed in the Australian Treaties Library on the AustLII website (https://www.austlii.edu.au).

(4) For the purposes of paragraph (1)(c), this subsection applies if a reasonable person who is a member of a group of persons distinguished by race, religion or nationality (a ***targeted group***) would consider that the conduct mentioned in paragraph (1)(a) involves advocacy that:

(a) is advocacy of hatred of:

(i) the targeted group; or

(ii) a member of the targeted group; and

(b) constitutes incitement of another person or group of persons to offend, insult, humiliate, intimidate or use force or violence against:

(i) the targeted group; or

(ii) a member of the targeted group.

Note: The object of this subsection is to give further effect to Article 20 of the Covenant.

58 Paragraph 80.2H(7)(b) of the *Criminal Code*

After "national", insert ", ethnic".

59 Subsections 80.2HA(3) and (4) of the *Criminal Code*

Repeal the subsections, substitute:

(3) For the purposes of paragraph (1)(c), this subsection applies if a reasonable person who is a member of a group of persons distinguished by race, colour or national or ethnic origin (a ***targeted group***) would consider that the conduct mentioned in paragraph (1)(a):

(a) involves dissemination of ideas of superiority over or hatred of a person who is a member of the targeted group, or the members of the targeted group, because of the race, colour or national or ethnic origin of the targeted group; or

(b) could incite another person or a group of persons to offend, insult, humiliate or intimidate:

(i) a person who is a member of the targeted group; or

(ii) the members of the targeted group.

Note: The object of this subsection is to give further effect to Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, done at New York on 21 December 1965. The Convention is in Australian Treaty Series 1975 No. 40 ([1975] ATS 40) and could in 2026 be viewed in the Australian Treaties Library on the AustLII website (https://www.austlii.edu.au).

(4) For the purposes of paragraph (1)(c), this subsection applies if a reasonable person who is a member of a group of persons distinguished by race, religion or nationality (a ***targeted group***) would consider that the conduct mentioned in paragraph (1)(a) involves advocacy that:

(a) is advocacy of hatred of:

(i) the targeted group; or

(ii) a member of the targeted group; and

(b) constitutes incitement of another person or group of persons to offend, insult, humiliate, intimidate or use force or violence against:

(i) the targeted group; or

(ii) a member of the targeted group.

Note: The object of this subsection is to give further effect to Article 20 of the Covenant.

60 Paragraph 80.2HA(7)(b) of the *Criminal Code*

After "national", insert ", ethnic".

61 Paragraph 80.2K(6)(b) of the *Criminal Code*

After "national", insert ", ethnic".

Division 5—Directions power

Criminal Code Act 1995

62 Paragraph 80.2K(1)(a) of the *Criminal Code*

Omit "other than by", substitute "including by".

Division 6—Seizing things displaying prohibited symbols

Criminal Code Act 1995

63 At the end of subsection 80.2K(1) of the *Criminal Code*

Add:

Note: The police officer may, under section 80.2N, also seize a thing that is, depicts or contains the prohibited symbol.

64 After section 80.2M of the *Criminal Code*

Insert:

80.2N Seizing things displaying prohibited symbols in public

(1) A police officer may seize a thing in accordance with this section if the thing is, depicts or contains a prohibited symbol that is displayed in a public place.

Seizing the thing

(2) A police officer may seize the thing, for the purpose of preventing the commission or continuation of an offence under subsection 80.2H or 80.2HA, if the police officer has a reasonable suspicion covered by subsection 80.2K(2), (3) or (6) in relation to display of the prohibited symbol.

Note 1: Sections 80.2H and 80.2HA relate to the public display of prohibited Nazi symbols and prohibited organisation symbols.

Note 2: The police officer may also give a direction under section 80.2K in relation to the display of the prohibited symbol.

(3) In seizing the thing, the police officer:

(a) may use such force or assistance as the police officer considers reasonably necessary; and

(b) may seize the thing only when it actually is in a public place; and

(c) must not damage the thing unless it is reasonably necessary for the seizure.

Return of seized things

(4) The person from whom the thing was seized, or the owner of the thing, may apply:

(a) if the thing was seized by a police officer to whom paragraph (a) or (b) of the definition of ***police officer*** in subsection (7) applies—to such a police officer; or

(b) if the thing was seized by a member (however described) of the police force of a State or Territory—to a police officer who is a member (however described) of the police force of that State or Territory;

for the return of the thing.

(5) On application by a person in accordance with subsection (4), the police officer must return the thing to the person, unless the officer is satisfied that:

(a) the thing must be retained to prevent the commission or continuation of an offence under section 80.2H or 80.2HA; or

(b) retention of the thing is necessary for evidentiary purposes.

(6) If no application for the return of the thing is made within 90 days of the day the thing was seized, a police officer who has custody of the thing may destroy or otherwise dispose of the thing.

Definitions

(7) In this section:

police officer means:

(a) a member of the Australian Federal Police (within the meaning of the *Australian Federal Police Act 1979*); or

(b) a special member of the Australian Federal Police (within the meaning of that Act); or

(c) a member (however described) of a police force of a State or Territory.

Part 7—Statutory reviews

Intelligence Services Act 2001

65 After paragraph 29(1)(cf)

Insert:

(cfa) to commence, as soon as practicable after the second anniversary of the day that Part 1 of Schedule 1 to the *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026* commenced, a review of the operation, effectiveness and implications of the amendments made by that Part, including the following:

(i) the operation and interpretation of the expressions "spiritual leader" and "another leader" in the offences in section 80.2DA of the *Criminal Code*;

(ii) whether those offences have operated effectively, proportionately and consistently with their intended purpose;

(iii) any impact of those offences on freedom of expression, freedom of religion or freedom of association;

(iv) whether any amendments are required to ensure those offences operate appropriately to address antisemitism, hate and extremism while remaining consistent with Australia's international obligations;

(v) a consideration of all relevant data from each agency (within the meaning of clause 1A of Schedule 1 to this Act); and

(cfb) to commence, as soon as practicable after the second anniversary of the day that Part 4 of Schedule 1 to the *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026* commenced, a review of the operation, effectiveness and implications of the amendments made by that Part, including the following:

(i) whether the amendments made by that Part are necessary and proportionate to address antisemitism, hate and extremism;

(ii) any impact of those amendments on freedom of expression, freedom of religion or freedom of association;

(iii) the practical operation of those amendments, including action taken by law enforcement and prosecuting agencies;

(iv) whether any amendments are required to ensure the provisions inserted or amended by that Part operate effectively while remaining consistent with Australia's international obligations; and

66 Review by Senate committee

The Senate Standing Committee on Legal and Constitutional Affairs, or such other committee constituted under a resolution of the Senate, must:

(a) begin a review of Subdivision CA of Division 80 of Part 5.1 of the *Criminal Code* as soon as practicable after the second anniversary of the commencement of this item; and

(b) report the Committee's findings to the Senate as soon as practicable after completing the review.

Schedule 2—Migration amendments

Part 1—Amendment of the Migration Act 1958

Migration Act 1958

1 Subsection 5(1)

Insert:

association: a person has an association, for the purposes of subsections 5C(1A), 500A(1A) and 501(6A), with an organisation if the person meets or communicates with the organisation.

Note: The association may consist of a single meeting or communication.

hate crime has the same meaning as in section 114A.3 of the *Criminal Code*.

member:

(a) in relation to a terrorist organisation—has the same meaning as in Division 102 of the *Criminal Code*; and

(b) in relation to a state sponsor of terrorism—has the same meaning as in Division 110 of the *Criminal Code*; and

(c) in relation to a prohibited hate group—has the same meaning as in Division 114A of the *Criminal Code*.

prohibited hate group has the same meaning as in Division 114A of the *Criminal Code*.

state sponsor of terrorism has the same meaning as in Division 110 of the *Criminal Code*.

terrorist organisation has the same meaning as in Division 102 of the *Criminal Code*.

2 After paragraph 5C(1)(bb)

Insert:

(bba) subsection (1A) applies to the non-citizen (spreading hatred and extremism); or

3 Paragraph 5C(1)(d)

Omit "would", substitute "might".

4 After subsection 5C(1)

Insert:

Spreading hatred and extremism

(1A) This subsection applies to a non-citizen if the Minister reasonably suspects that:

(a) both of the following apply:

(i) the non-citizen is, or has been, a member of an organisation;

(ii) at any time the non-citizen was a member of the organisation, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group; or

(b) all of the following apply:

(i) the non-citizen has, or has had, an association with an organisation;

(ii) at any time during the non-citizen's association, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group;

(iii) the non-citizen intends, or intended, by the association, to support terrorism, extremism or hatred or to further acts of terrorism, extremism or hatred; or

(c) the non-citizen has been or is involved in conduct constituting a hate crime (whether or not the non-citizen, or another person, has been convicted of an offence constituted by the conduct); or

(d) both of the following apply:

(i) the non-citizen has made one or more public statements, or has endorsed a statement publicly, (whether in Australia or overseas, and including online statements) that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin;

(ii) in the event the non-citizen were allowed to enter or to remain in Australia, there is a risk of harm to the Australian community or to a segment of that community; or

(e) both of the following apply:

(i) the non-citizen has encouraged one or more other persons to make a statement publicly (whether in Australia or overseas, and including an online statement) that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin;

(ii) in the event the non-citizen were allowed to enter or to remain in Australia, there is a risk of harm to the Australian community or to a segment of that community.

Note 1: Antisemitic statements are an example of statements that involve harmful ideas based on superiority over or hatred of other persons on the basis of ethnic origin, as mentioned in subparagraphs (d)(i) and (e)(i).

Note 2: See also subsection 5(1) for definitions of terms used in this subsection.

Limbs do not limit each other

(1B) None of the limbs of subsection (1) or (1A) are intended to limit or otherwise affect each other.

Minister not required to determine whether membership or association is ongoing

(1C) The Minister is not required to determine whether a person's membership of or association with an organisation is continuing or has concluded when making a decision for the purposes of paragraph (1A)(a) or (b).

Substantial criminal record

5 After paragraph 500A(1)(a)

Insert:

(aa) subsection (1A) applies to the person (spreading hatred and extremism); or

6 Paragraph 500A(1)(c)

Omit "would", substitute "might".

7 After subsection 500A(1)

Insert:

Spreading hatred and extremism

(1A) This subsection applies to a person if the Minister reasonably suspects that:

(a) both of the following apply:

(i) the person is, or has been, a member of an organisation;

(ii) at any time the person was a member of the organisation, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group; or

(b) all of the following apply:

(i) the person has, or has had, an association with an organisation;

(ii) at any time during the person's association, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group;

(iii) the person intends, or intended, by the association, to support terrorism, extremism or hatred or to further acts of terrorism, extremism or hatred; or

(c) the person has been or is involved in conduct constituting a hate crime (whether or not the person, or another person, has been convicted of an offence constituted by the conduct); or

(d) both of the following apply:

(i) the person has made one or more public statements, or has endorsed a statement publicly, (whether in Australia or overseas, and including online statements) that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin;

(ii) in the event the person were allowed to enter or to remain in Australia, there is a risk of harm to the Australian community or to a segment of that community; or

(e) both of the following apply:

(i) the person has encouraged one or more other persons to make a statement publicly (whether in Australia or overseas, and including an online statement) that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin;

(ii) in the event the person were allowed to enter or to remain in Australia, there is a risk of harm to the Australian community or to a segment of that community.

Note 1: Antisemitic statements are an example of statements that involve harmful ideas based on superiority over or hatred of other persons on the basis of ethnic origin, as mentioned in subparagraphs (d)(i) and (e)(i).

Note 2: See also subsection 5(1) for definitions of terms used in this subsection.

Limbs do not limit each other

(1B) None of the limbs of the grounds for refusal or cancellation of a temporary safe haven visa are intended to limit or otherwise affect each other.

Minister not required to determine whether membership or association is ongoing

(1C) The Minister is not required to determine whether a person's membership of or association with an organisation is continuing or has concluded when making a decision for the purposes of paragraph (1A)(a) or (b).

8 After paragraph 501(6)(b)

Insert:

(baa) subsection (6A) applies to the person (spreading hatred and extremism); or

9 Paragraph 501(6)(d)

Omit "would", substitute "might".

10 After subsection 501(6)

Insert:

Spreading hatred and extremism

(6A) This subsection applies to a person if the Minister reasonably suspects that:

(a) both of the following apply:

(i) the person is, or has been, a member of an organisation;

(ii) at any time the person was a member of the organisation, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group; or

(b) all of the following apply:

(i) the person has, or has had, an association with an organisation;

(ii) at any time during the person's association, the organisation was a terrorist organisation, a state sponsor of terrorism or a prohibited hate group;

(iii) the person intends, or intended, by the association, to support terrorism, extremism or hatred or to further acts of terrorism, extremism or hatred; or

(c) the person has been or is involved in conduct constituting a hate crime (whether or not the person, or another person, has been convicted of an offence constituted by the conduct); or

(d) both of the following apply:

(i) the person has made one or more public statements, or has endorsed a statement publicly, (whether in Australia or overseas, and including online statements) that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin;

(ii) in the event the person were allowed to enter or to remain in Australia, there is a risk of harm to the

Australian community or to a segment of that community; or

(e) both of the following apply:

(i) the person has encouraged one or more other persons to make a statement publicly (whether in Australia or overseas, and including an online statement) that involves the dissemination of ideas based on superiority over or hatred of other persons on the basis of race, colour, or national or ethnic origin;

(ii) in the event the person were allowed to enter or to remain in Australia, there is a risk of harm to the Australian community or to a segment of that community.

Note 1: Antisemitic statements are an example of statements that involve harmful ideas based on superiority over or hatred of other persons on the basis of ethnic origin, as mentioned in subparagraphs (d)(i) and (e)(i).

Note 2: See subsections (11A) and (11B) for other rules relating to this subsection. See also subsection 5(1) for definitions of terms used in this subsection.

11 After subsection 501(11)

Insert:

Limbs of character test do not limit each other

(11A) None of the limbs of the character test are intended to limit or otherwise affect each other.

Note: In addition, the power to cancel a visa because a person fails the character test is not limited by other powers in this Act to cancel the visa (see section 118).

Minister not required to determine whether membership or association is ongoing

(11B) The Minister is not required to determine whether a person's membership of or association with an organisation is continuing or has concluded when making a decision for the purposes of paragraph (6A)(a) or (b).

12 Application provision

(1) The amendments of section 5C of the *Migration Act 1958*, made by this Part, apply, for the purposes of subsection 336E(2) of that Act, in relation to any disclosure of information that is made on or after commencement of this Part (whether the information was collected before, on or after that commencement).

(2) The amendments of sections 500A and 501 of the *Migration Act 1958*, made by this Part, apply in relation to any decision:

(a) to grant or refuse to grant a visa if:

(i) the application for the visa was made before the commencement of this Part, and had not been finally determined as at that commencement; or

(ii) the application for the visa is made on or after that commencement; and

(b) a decision made on or after that commencement to cancel a visa, whether the visa was granted before, on or after that commencement.

(3) A decision covered by subitem (2) may take into account any conduct occurring before, on or after that commencement.

Part 2—Amendment of the Migration Regulations 1994

Migration Regulations 1994

13 After paragraph 5001(c) of Schedule 5

Insert:

(ca) a person who left Australia, and whose visa has been refused under section 501, 501A or 501B of the Act, if:

(i) the refusal has not been revoked under subsection 501C(4) of the Act; or

(ii) after refusing the visa, the Minister has not, acting personally, granted a permanent visa to the person;

whether or not the person was in Australia when the visa was refused; or

14 In the appropriate location in Schedule 13

Insert:

Part 157—Amendments made by the Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026

15701 Operation of amendments

The amendments of these Regulations made by Part 2 of Schedule 2 to the *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026* apply in relation to an application for a visa:

(a) made on or after the commencement of that Part; and

(b) made, but not finally determined, before that commencement.

Schedule 3—Transitional rules

1 Transitional rules

(1) The Minister administering the *Migration Act 1958*, or the Minister administering the *Administrative Review Tribunal Act 2024*, may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Act.

(2) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply in relation to rules made under this item before the end of the period of 12 months starting on the day this item commences.

(3) To avoid doubt, the rules may not do the following:

(a) create an offence or civil penalty;

(b) provide powers of:

(i) arrest or detention; or

(ii) entry, search or seizure;

(c) impose a tax;

(d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) directly amend the text of this Act.